

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
DANYELL THOMAS, RASHAUN F. FRAZER, :
ANDRAE WHALEY and ELENI MIGLIS, :
individually and on behalf of all other employees :
similarly situated :

Plaintiffs

v.

Civil Action No. 16-cv-8160

BED BATH AND BEYOND, INC.

Defendant.

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DECLARATION OF MICHAEL FURLONG

I, Michael Furlong, based on my personal knowledge of the facts stated herein, testify by

Declaration as follows:

1. I am over the age of 18 and am otherwise competent to testify to the matters contained in this Declaration, and if so called, would testify to the facts below.
2. All of the statements in this Declaration are true and accurate to the best of my knowledge.
3. The facts set forth in this Declaration are based on my own personal knowledge and the stores in which I have experience.
4. I became employed by Bed Bath and Beyond Inc. ("BBB") in 2006. In 2014, I became a Regional Human Resources Recruiter for the Northeast Region. Also in 2014, I became a District Human Resources Manager responsible for three (3) New York stores and three (3) New Jersey stores. The Northeast Region includes 77 stores in New York state (but not the stores in Manhattan, the Bronx and part of Brooklyn which are in the New York City

District), Connecticut, and three (3) stores in New Jersey. The Northeast Region also includes New Hampshire, Rhode Island Vermont, Maine and Massachusetts. There are currently 121 stores in my total Region.

5. Department Managers are classified as non-exempt employees. They are eligible for, and receive, overtime pay. From 2011 – 2015, Department Managers' overtime compensation was calculated pursuant to the Fluctuating Workweek methodology ("FWW").

6. In my Region, for the period 2011 -- 2015 I was responsible for extending offers to Department Managers. During that time period, I had approximately 55 conversations with Department Manager candidates relating to their compensation. These conversations included both the original conversation when an offer was made, as well as any follow up conversations.

7. When making an offer, I would utilize a script as a guide to make sure I covered all of the information necessary to convey the offer. I always started off by informing the candidate of BBB's use of the FWW when calculating overtime and asking the candidate if they knew of the FWW or had heard of it. Approximately 30% of the candidates were already familiar with the FWW, whereas about 70% of candidates were not. Even if someone was already familiar with the FWW, if they asked me to explain it to them, I would.

8. At the end of my explanation, I would tell the candidate what their anticipated total compensation would be assuming they worked all of their scheduled hours. I explained to them that the amount they would receive for each overtime hour would vary based on the number of hours worked.

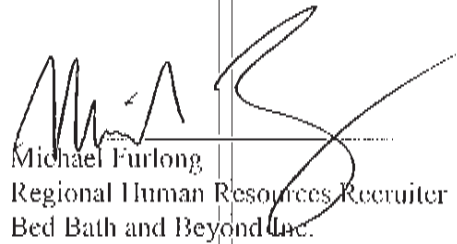
9. At the end of my conversation with candidates, I would give them my contact information and tell them to call me if they had any questions about their salary or how overtime

was calculated. I rarely received any follow up questions from candidates. For the period 2011 – 2015, I assisted in hiring or promoting approximately 100 Department Managers.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 7th day of April, 2017.

By:



Michael Furlong
Regional Human Resources Recruiter
Bed Bath and Beyond Inc.